

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION

UNITED STATES OF AMERICA ex rel.	)	
TRACY CONROY,	)	
PAMELA SCHENCK, and	)	
LISA WILSON,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 3:12-cv-00051-RLY-DML
	)	
SELECT MEDICAL CORPORATION,	)	
SELECT SPECIALTY HOSPITAL-	)	
EVANSVILLE, INC.,	)	
DR. RICHARD SLOAN, and	)	
SELECT EMPLOYMENT SERVICES,	)	
INC.,	)	
	)	
Defendants.	)	

Order on Relators' Motion to File Third Amended Complaint

The relators seek leave to file a third amended complaint for the sole purpose of adding a defendant, Select Specialty Hospital – Evansville, LLC, to their employment retaliation claims under the False Claims Act and parallel Indiana statutes. This entity was recently identified by counsel for the other defendants as the relators' former employer. The "Select" defendants and Dr. Sloan objected to the motion insofar as the filing of the proposed third amended complaint might be viewed as reviving claims that already were dismissed; they had no objection to the relators adding the new defendant to their employment retaliation claims. The defendants suggested that the new defendant could be added via a court order treating the motion as one under Rules 20 or 21 to join a party to the employment-

related claims in the second amended complaint (Dkt. 128), as that complaint has been narrowed through the court's order (Dkt. 163) on motions to dismiss. The relators do not object to that treatment, so long as the court does not dismiss defendants Select Specialty Hospital – Evansville, Inc. and Select Employment Services, Inc. as defendants to their employment retaliation claims.

The court finds that the relators' second amended complaint may be amended by *adding* the new defendant to their employment-related claims in that complaint, as the complaint has been narrowed through the court's September 30, 2016 order on motions to dismiss. The addition of the new defendant does not result in the dismissal of any other defendants or alter the status of any pending claims against any of the defendants.

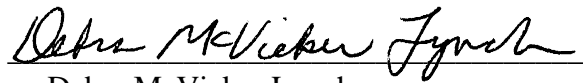
Therefore, pursuant to the joinder provisions of Fed. R. Civ. P. 20 and 21 and the court's power under Rule 16 to amend the pleadings, the court ORDERS that Select Specialty Hospital – Evansville, LLC ("SSHLLC") is HEREBY JOINED as a defendant to Counts II through VII of the relators' Second Amended Complaint. The relators must serve a subpoena on SSHLLC or obtain its counsel's waiver of formal service. SSHLLC must file its answer to Counts II through VII within 45 days of service of a subpoena or waiver of service. The Clerk is directed to add Select Specialty Hospital – Evansville, LLC as a defendant on the docket.

**Conclusion**

The relators' motion (Dkt. 229) for leave to file an amended complaint to add SSHLLC as a defendant is GRANTED IN PART AND DENIED IN PART as provided in this order.

So ORDERED.

Dated: October 4, 2018

  
Debra McVicker Lynch  
United States Magistrate Judge  
Southern District of Indiana

Distribution:

All ECF-registered counsel of record by email through the court's ECF system